

## Report of Committee on Atomic Attack

Report of the Chairman for the Year 1958-1959

### RECOMMENDATIONS

I. That the life of this Committee be continued.

II. That the Board of Directors of this Association adopt the following resolution, which has been approved by (or circulated to) all members of this Committee:

"WHEREAS the studies of numerous governmental or legal organizations, including the Special Committee on Atomic Attack of the American Bar Association, have concluded that the continuity of civilian government and the continuation of civil law and order in the event of atomic attack are important measures in preparing for survival and revival in case of atomic attack, and as a deterrent to attack; and

WHEREAS it is the opinion of the Committee on Atomic attack of this Association that, with adequate preparation for the continuation of civil law and order, it is neither necessary nor desirable to have military control of civilian defense and that, at most, martial rule may have to be invoked in limited areas and for limited periods of time,

RESOLVED, therefore, that the Board of Directors of the Bar Association of the District of Columbia recommends that the National Civil Defense efforts remain under civilian control, and that preparations for the continuation of civilian law and order be carried forward vigorously.

FURTHER RESOLVED, that copies of this resolution be transmitted to local defense officials and other interested local government officials."

III. That the Board of Directors of this Association receive the following report of this Committee, which has been approved by (or circulated to) all members of this Committee, and that the Board circulate copies thereof to all of the Association's committees for comment, and copies to the ABA Special Committee on Atomic Attack and to the Office of Civilian Defense Mobilization:

## Report of Subcommittee on Legal and Administrative Problems of the Lawyer and His Clients in Time of Atomic Attack

The value of preparation as a deterrent to atomic attack as well as a means of minimizing its devastating effect has been so often repeated as to become a truism. The lawyer as a leader in both the business and social community has the positive duty of informing himself of the consequences of a possible atomic attack and the legal preparations which can and must be made for himself and his clients.

The lawyer least of all can afford to be a fatalist, for in case of such an attack legal preparation may mean the difference between economic survival and destruction.

While it is obviously impossible to give detailed instructions for application to particular cases the Committee will attempt to set the stage and point out some of the more common problems that the lawyer must solve for himself and his clients.

In the event of atomic attack large areas will be completely destroyed, even large areas partially destroyed and made uninhabitable for long periods and still larger areas made uninhabitable for varying lengths of time. Areas untouched by the actual attack will soon feel the effects of the immense physical and economic destruction.

### INDIVIDUAL PREPARATION

The individual attorney should *now* plan a relocation area, likely to be spared actual physical damage in an attack, where his family and business associates could meet after an attack. Individual clients should be advised of the desirability of such a relocation area for both their family and business.

Every individual should prepare an estate record, together with copies of important papers, which should be kept in one or more remote locations likely to be spared actual physical damage in an atomic attack. One such place should most probably be the relocation area.

An estate record should contain the following:

1. Copy of the individual's will.
2. Record of assets and their location.

3. Photostats or certified copies of important papers:
  - a. birth certificates
  - b. marriage licenses
  - c. service discharge papers
  - d. insurance policies
  - e. deeds
  - f. mortgages
  - g. trusts
  - h. contracts
  - i. partnership agreements
  - j. others
4. Contingent appointment of guardians for children.

The individuals' wills should provide for contingent executors, trustees and guardians who are likely to survive an atomic attack.

#### CORPORATE AND BUSINESS PREPARATION

Every corporation must be so organized as to provide for the conservation of its assets and the continuance of its business in the event of atomic attack. The following should be included in the corporation's charter or by-laws to accomplish this objective.

1. Authority to change the nature of the corporation's business in the event of attack.
2. The grant of emergency powers to corporate officers, executives and employees in event of attack.
3. A planned succession to the powers of the various corporate officers and executives.
4. The grant of emergency powers to the board of directors.
5. Provision for alternate directors.
6. Provision for duplicate stock record books maintained in a non-critical location.

All businesses whether or not incorporated should arrange for the systematic preservation in non-critical areas of copies of its most vital records. A particular area in which the attorney must be alert to his clients' needs is the long term contract. Such a contract which does not foresee and prepare for the

effect of atomic attack could result in the economic destruction of the individual or business client.

These are the most pressing legal problems brought to the subcommittee's attention and it is hoped that this report may serve as a starting point for a full exposition of the legal problems arising for an atomic attack.

Respectfully submitted,

/s/ HUGH A. M. SHAFER, JR.

It is recommended that all persons desiring a full understanding of the problem read Cavers, *Legal Planning Against the Risk of Atomic War*, 55 Col. L. Rev. 127 (1955)

#### Report

This Committee of 13 persons was appointed as a new committee this year by President Edgerton in accordance with a recommendation from the ABA Committee of the same name. Since our field was so large, it was decided at the first meeting to form three subcommittees, as follows:

1. Exploration of Legal and Administrative Problems Relating to the District of Columbia Government, Jack M. Merelman, Chairman.
2. Exploration of Legal and Administrative Problems Relating to the Federal Government, Benjamin F. Pollack, Chairman.
3. Exploration of Legal and Administrative Problems of the Lawyer and his Clients in Time of Atomic Attack, Hugh A. M. Shafer, Jr., Chairman.

Progress has been quite satisfactory in the study areas of the last two subcommittees but not in the one dealing with the District of Columbia Government. The District of Columbia Subcommittee selected as its special projects the following:

1. The proposed Act to amend the District of Columbia Civil Defense Act of 1950 (H.R. 11166 and its companion Senate version).

2. The Operational Survival Plan prepared by the District of Columbia Office of Civil Defense and currently awaiting the action of the Board of Commissioners.

From the time of our organization meeting last October until the present time we have endeavored to obtain the District Government's recommendations for changes in H.R. 11166 and a copy of the Proposed Operational Survival Plan, but without success. Nearly everyone concerned states that our opinions on these matters would be valuable and welcomed, but no one has been willing to release the material to us.

The initial report of the second subcommittee listed above, the one concerned with the Federal Government, is presently being circulated to the Committee members and will be submitted to the Board at a later date.

The initial report of the third subcommittee, the one concerned with individual lawyers and their clients, is submitted herewith as the Third Recommendation above.

Your Committee has held monthly meetings beginning in October until the present time with the exception of the month of February. The interest, participation and attendance of about half of the Committee members has been good. I particularly wish to commend the following for their contributions to the work of this Committee:

Mr. Hugh A. M. Shafer, Jr., Subcommittee Chairman

Mr. Benjamin F. Pollack, Subcommittee Chairman

Mr. Hans A. Klagsbrunn (Mr. Klagsbrunn is also Chairman of the ABA Special Committee on Atomic Attack)

Mr. Gordon M. VanSanford

I also wish to report that in April I was appointed the District of Columbia member of the Associate and Advisory Committee to the Special Committee on Atomic Attack of the American Bar Association.

Respectfully submitted,  
MARSHALL C. GARDNER,  
*Chairman*